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Construction A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (1 minute read)

Nazero Group Pty Ltd v Top Quality Construction Pty Ltd (NSWSC) - security of payments - plaintiff seeking to quash adjudication decision required to pay unpaid portion of adjudication amount into Court



Summaries with links (5 Minute Read)

Nazero Group Pty Ltd v Top Quality Construction Pty Ltd [2015] NSWSC 232

Supreme Court of New South Wales

Hammerschlag J

Security of payments - plaintiff and first defendant entered agreement under which first defendant would do formwork and concreting for plaintiff - payment dispute arose - adjudicator made determination in first defendant's favour - plaintiff sought to quash adjudication - first defendant sought order requiring plaintiff to pay unpaid portion of adjudicated amount as security into Court pending final determination of proceedings - s25(4)(b) *Building and Construction Industry Security of Payment Act 1999* (NSW) required payment of such amount into Court pending determination of proceedings to set aside a judgment based on adjudication, however in this case first defendant had not filed adjudication as judgment for a debt - exercise of discretion in particular circumstances of case - s25 held: policy of not served by removing first defendant's protection pending determination of plaintiff's challenge even though s25(4)(b) did not apply in terms - manifestly unfair use of Court's process to permit plaintiff to mount its challenge without having to pay money into Court - proceedings stayed unless plaintiff paid unpaid portion of amount into Court.

[Nazero](#)

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